

REMARKS/ARGUMENTS

A. Rejection for Obviousness-Type Double Patenting

The Examiner has rejected Claims 1-18 as unpatentable under the obviousness-type double patenting doctrine in light of U.S. Patent No. 6,708,165 (the '165 patent), and U.S. Patent No. 6,493,711 (the '711 patent), both commonly owned by H5 Technologies, Inc., the assignee of the present application. To overcome this rejection, Applicant submits terminal disclaimers for both the '165 patent and the '711 patent. It is respectfully requested that the Examiner now remove his rejection of Claims 1-18 under the obviousness-type double patenting doctrine.

B. Rejection for Obviousness

The Examiner has rejected Claims 1-3 and 10-12 as obvious in light of the combination of U.S. Patent No. 5,926,812 ("Hilsenrath") and the publication entitled "Automatic thyroid diagnostics via simulation of physician judgment" ("Johannes"). Applicant notes that the Examiner cited these references before during the prosecution of parent U.S. Patent Application No. 10/315,059 (the '165 patent). These references were successfully overcome, allowing the claims in the parent application to issue as the '165 patent. Applicant notes that the arguments presented during the prosecution of the '165 patent apply equally here because the limitation "segmented judgment matrix" is found in the claims in the allowed '165 patent, and is in the claims rejection in the May 1, 2007 Office Action.

As a preliminary matter, no motivation is given to combine the Johannes reference with the Hilsenrath reference. In fact, the Hilsenrath reference teaches away from Johannes. Johannes discloses an artificial intelligence system that utilizes the intuitive judgment of physicians (experts) to render a diagnosis (conclusion). (Johannes at 108 et. seq.) Johannes describes applying scientific judgment to analyze symptoms. Conversely, Hilsenrath steps away from expert analysis and discloses an invention that provides a computer-implemented method for comparing the textual data of two documents. (See Hilsenrath Summary). This opposition to expert intervention discourages the combination of Johannes and Hilsenrath such that any teaching, suggestion or motivation to combine the cited prior art references is lacking.

Notwithstanding the fact that there is no teaching or motivation to combine the cited prior references, the combined teachings of Johannes and Hilsenrath fail to disclose the claimed invention. Specifically, rejected Claims 1 and 10 recite a "segmented judgment matrix, the

segmented judgment matrix being a numerical matrix pairing each of a set of terms to each of a set of subject matter classifications.” Since neither Hilsenrath nor Johannes teach or suggest a segmented judgment matrix that pairs terms with subject matter classifications, even if the combination of references was proper, the prior art does not teach the claimed limitation.

The Examiner acknowledges that “Hilsenrath does not particularly indicate that the matrix used is a judgment matrix.” (Office Action of May 1, 2007, at p. 6). Further, the matrices and submatrices of Hilsenrath have columns and rows that both represent individual words found in documents. In addition, the columns and rows represent the exact same words, thus forming square matrices. Consequently, in Hilsenrath, if a matrix has a row heading, it must have an identical column heading. (See Hilsenrath, columns 8-9 and Figures 12, 13, and 16). Hilsenrath's matrices reproduce data automatically extracted from documents, and the rows and columns represent words extracted from those documents.

In contrast, Applicant's segmented judgment matrix is not a matrix with identical row and column headings. Rather, claims 1 and 10 recite a segmented judgment matrix that pairs terms with subject matter classifications. For example, the rows can represent terms and the columns can then represent subject matter classifications. The elements of the matrix can then each represent a rating of the relevance of a term (e.g., the row) with respect to a subject matter classification (e.g., the column) that intersect in that element. This does not involve or generate a square matrix nor one in which the rows and columns share the same headings. Hilsenrath does not disclose or suggest the use of subject matter classifications paired with terms in a matrix as the matrices in Hilsenrath require identical words in both the rows and columns. Thus, as acknowledged by the Examiner, Hilsenrath does not teach the claim limitation that requires terms are paired with subject matter classification.

Johannes, if it were to be properly combined with Hilsenrath, which applicant disputes, does not cure the deficiencies of Hilsenrath. Johannes describes a judgment matrix, but the judgment matrix of Johannes is not a “segmented judgment matrix” as required by claims 1 and 10. Johannes applied Peter Ossorio's judgment matrix technique to the diagnosis of thyroid conditions. To do this, Johannes constructed two matrices – one for determining likely diseases based on symptoms and clinical history diagnosis; and the other for determining diagnostic tests to perform to confirm a diagnosis. The Johannes matrices are unsegmented and include no submatrices. For example, the symptom and clinical history diagnosis matrix included a 32 by 536 matrix with 32 diseases on one axis and 536 symptoms on the other. (See Johannes pages

29-31 and Appendix A). Thus, Johannes does not teach or suggest the use of a segmented judgment matrix as claimed.

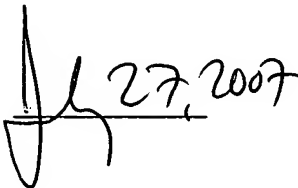
Since neither Hilsenrath nor Johannes disclose or suggest the segmented judgment matrices or the pairing of terms with subject matter classifications as set forth in claims 1 and 10, the combination of Hilsenrath and Johannes does not render claims 1 or 10 claims.

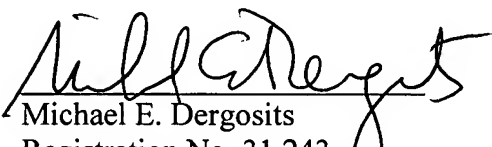
C. Conclusion

For at least the foregoing reasons, the applicant respectfully submits that claims 1 and 10, as well as claims 2-3 and 11-12 which depend from Claims 1 and 10 respectively, are in condition for allowance. Applicant therefore respectfully requests that the rejection of claims 1-3 and 10-12 be reconsidered, and that a timely Notice of Allowance issue on this application.

Respectfully submitted,

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Attachments:

Terminal disclaimers